

**IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF WEST VIRGINIA  
CLARKSBURG**

**SCOTT T. BALLOCK,**

Plaintiff,

v.

**ELLEN RUTH COSTLOW, et al.,**

Defendants.

**Case No.: 1:17-CV-52  
(JUDGE KEELEY)**

**ORDER FOLLOWING SCHEDULING CONFERENCE**

Pending before the Court are the Defendants' motions to dismiss (ECF Nos. 15 & 17), as well as Plaintiff's Motion to Amend/Correct Amended Complaint (ECF No. 42). On October 13, 2017 came the parties for a motion hearing – Plaintiff by counsel Frederick Juckniess, Esq., and Charles Crooks, Esq.; Defendant Costlow by counsel P. Todd Phillips, Esq.; and the State Trooper Defendants (Kief, Gaskins, and Berry) by counsel Mark Jeffries, Esq.

At the last status conference on September 28, 2017, Counsel for Plaintiff advised that Plaintiff's recent loss of employment would necessitate amendment of the complaint to include this new information. At that time, Plaintiff was directed to file a motion to amend with the amended complaint attached within fourteen days. Subsequently, Plaintiff's motion and amended complaint were filed on October 12, 2017. At the hearing on October 13, 2017, counsel for Defendant Costlow and counsel for the Trooper Defendants advised the undersigned that they opposed Plaintiff's motion to amend as futile because the recent facts of Plaintiff's loss of employment did not change anything, in their view.

Rule 15(d) of the Federal Rules of Civil Procedure provides in relevant part that "on motion and reasonable notice, the court may, on just terms, permit a party to serve a

supplemental pleading setting out any transaction, occurrence, or event that happened after the date of the pleading to be supplemented.” Plaintiff’s supplemental complaint contains no substantive changes; only the addition of paragraph 120, setting forth recent facts pertaining to Plaintiff’s loss of employment that occurred after the original and amended complaints were filed. Plaintiff did file a motion and provide reasonable notice, and it is relevant to Plaintiff’s claims. Accordingly, the undersigned **GRANTS** Plaintiff’s motion (ECF No. 42) and **ORDERS** that the amended complaint (ECF No. 42-2) be filed herein.


The parties then presented oral argument on the motions to dismiss. The parties’ briefs and oral arguments were taken under advisement, and the undersigned will issue a written order on the motion to dismiss.

The parties are further **DIRECTED** to file a joint proposed protective order **within fourteen (14) days** from the date of this order.

It is so **ORDERED**.

The Clerk of Court is **DIRECTED** to provide copies of this order to all counsel of record.

**Dated: October 13, 2017.**



MICHAEL JOHN ALOI  
UNITED STATES MAGISTRATE JUDGE